REMARKS

I.   Summary of Office Action

Claims 1-62 are pending in this application.

Claims 1-9, 12, 17, 18, 20-22, 30 and 31 were rejected under 35 U.S.C. § 102(b) as being anticipated by Hirsimaki U.S. patent 4,001,551 (hereinafter "Hirsimaki"). Claims 10, 11, 13-16, 23-39 and 32-62 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Hirsimaki in view of Mindes U.S. patent 5,573,244 (hereinafter "Mindes").

II.   Summary of Telephonic Interview

The Examiner, the undersigned and the undersigned's colleague Adam M. Saltzman, Reg. No. 52,188 conducted a telephonic interview on January 27, 2004. The undersigned and Mr. Saltzman wish to thank the Examiner for the courtesies extended during the interview.

Details of the interview will appear in the discussion below where appropriate. Generally, the Examiner and the undersigned discussed whether "providing what projected effect the user's proposed wager would have on the parimutuel pool to the user," which is specified in independent claim 1, is shown or suggested in Hirsimaki. The Examiner and the undersigned discussed the equation for calculating place or show odds that

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is provided in Hirsimaki's Background of the Invention (see Hirsimaki, column 2, lines 11-35). The Examiner initially alleged that the variable 'a' was the amount of a proposed wager. During the interview, the undersigned believes that the Examiner agreed with the undersigned's argument that the variable 'a' is actually the total amount wagered on a horse for which the odds are being calculated. Since this equation does not contemplate a user's proposed wager, the undersigned believes that the Examiner was persuaded by the undersigned's argument that Hirsimaki does not disclose applicants' claimed invention. However, as stated in the Examiner's Interview Summary, the Examiner will review the reference with regard to applicant's argument (see January 29, 2004 Examiner's Interview Summary).

The Examiner and the undersigned also discussed whether it would be obvious to one of ordinary skill in the art to add a user's proposed wager amount, when it is of a significant size, to (a) the total amount wagered in the pool and (b) the total amount wagered in the pool on the horse for which the odds are being calculated. The Examiner alleged that this would be obvious and the undersigned disagreed. (See January 29, 2004 Examiner's Interview Summary). Details of this disagreement will appear in the discussion below.

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III.   Summary of Applicants' Reply to Office Action

The Examiner's rejections are respectfully traversed.
Applicants respectfully submit that this application is
allowable over the references of record.

IV.   The Rejections Under 35 U.S.C. § 102

IV.1   Claim 1

Applicants' independent claim 1 is directed towards a
method for providing the projected effects of wagering on
parimutuel pools to a user in an interactive wagering system. A
user input proposing a wager that is associated with at least
one parimutuel pool is received. Information that affects the
user's potential winnings based on the user input is obtained.
The projected effect that the user's proposed wager would have
on the parimutuel pool is provided to the user.

The Examiner contends that Hirsimaki shows a method
for providing the projected effects of wagering on parimutuel
pools to the user (see Office Action, ¶ 2). Applicants
respectfully disagree. Hirsimaki shows a mechanical calculating
device that is used to calculate win, place and show odds in
parimutuel pools (see Hirsimaki, Abstract). The device
calculates odds in parimutuel pools based on the equation
provided in the Background of the Invention (see Hirsimaki,

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column 2, lines 11-35). The variables in the equation relevant

for discussion are the following:

p = the total amount wagered in the pool;
a = the total amount wagered in the pool on a
particular horse for which the odds are being
calculated; and
b = the total amount wagered in the pool on the other
horse or horses that are sharing in the profits
of the pool with the horse for which the odds are
being calculated.

Hirsimaki also provides an example of how to operate a

mechanical calculating device in FIG. 5. In this example it can

be seen how this equation is applied to the device when

calculating place odds (see Hirsimaki, column 7, lines 15-51).

In FIG. 5, the device takes as inputs the total amount in the

place pool, the amount in the place pool wagered on the horse of

interest (i.e., the horse for which the odds are being

calculated) and the amount in the place pool for the other horse

that is sharing the place pool profits with the horse of

interest. (It should be noted that there is only one other

horse which is sharing the place pool profits because in place

wagers, only two horses share the pool profits.) These three

inputs for the device correspond to the variables 'p', 'a' and

'b' in the equation provided in the Background of the Invention.

The description that accompanies FIG. 5 provides an

example where the total amount for the place pool is $20,000,

the total amount in the place pool for horse X is $2,000 and the

total amount in the place pool for horse Y is $4,000. As stated

in Hirsimaki, these amounts are obtained from the tote board

(Hirsimaki, column 7, lines 16-21). Hirsimaki then explains how

to use its device to calculate the place odds for horse X, which

is the horse of interest. The input for the amount in the place

pool wagered on the horse of interest is the total amount

wagered on horse X, or $2,000. As stated above, the input for

the amount in the place pool wagered on the horse of interest

corresponds with the variable 'a' in the equation from the

Background of the Invention. Since Hirsimaki discloses that the

total amount wagered on horse X is obtained from the tote board,

this demonstrates that the variable 'a' is not a user's proposed

wager as the Examiner initially alleged during the Examiner

Interview. The foregoing was discussed in the Examiner

Interview and the undersigned believes the Examiner agreed that

the variable 'a' is the total amount in the pool wagered on the

horse of interest.[*]

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[*] In addition, applicants would like to point out that by performing a basic
analysis of the equation, it can easily be seen that the equation variable
'a' is not a proposed wager amount. This will be illustrated by assuming
that the variable 'a' is a proposed wager amount. Therefore, if the total
pool amount is $20,000, the equation would show that the odds for a proposed
wager would approximately double when comparing a proposed $1 wager to a
proposed $0.50 wager. This is because the variable 'a' is the denominator in
the equation and because the variable 'a' would have only a small effect on
the numerator in this example. However, this result is obviously not

Furthermore, Hirsimaki does not teach a user to add the user's proposed wager amount to (a) the total pool amount and (b) the total amount in the pool wagered on the horse for which the odds are being calculated in order to provide to the user the projected effect the user's proposed wager would have on the parimutuel pool.

Accordingly, Hirsimaki fails to show or suggest applicant's invention as specified by claim 1. For at least this reason, applicants respectfully request that the rejection of claim 1 under 35 U.S.C. § 102(b) be withdrawn.

IV.2   Claim 17

Applicants' independent claim 17 is directed towards a method for providing the projected effects of wagering on odds associated with a proposed wager in an interactive wagering system. A user input to create the proposed wager that is associated with at least one parimutuel pool is received. Parimutuel pool information and current odds for the proposed wager are obtained. The effect that the proposed wager would have on the current odds is determined and projected odds are provided to the user.

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correct. Accordingly, this basic analysis of the equation demonstrates that the variable 'a' is not a proposed wager amount.

The Examiner rejected independent claim 17 for the same reason as independent claim 1 (see Office Action, ¶ 2). As demonstrated above, Hirsimaki merely shows a mechanical device used to determine the current state of the odds based on wagers that have been placed.

Accordingly, Hirsimaki fails to show or suggest determining the effect that the user's proposed wager would have on the current odds as specified by claim 17. In addition, Hirsimaki fails to show or suggest providing projected odds to the user as specified by claim 17. For at least these reasons, applicants respectfully request that the rejection of claim 17 under 35 U.S.C. § 102(b) be withdrawn.

V. The Rejections Under 35 U.S.C. § 103
Of Claims 32 and 48

Applicants' independent claim 32 is directed towards an interactive wagering system for providing the projected effects of wagering on parimutuel pools to a user. A user input device receives user input to propose a wager that is associated with at least one parimutuel pool. Circuitry is configured to obtain information for the proposed wager that affect user's potential winnings based on the user input and display what projected effects the user's proposed wager would have on the parimutuel pool to the user.

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Applicants' independent claim 48 is directed towards an interactive wagering system for providing what effect wagering would have on current odds associated with a proposed wager. A user input device receives user input to create the proposed wager that is associated with at least one parimutuel pool. Circuitry is configured to obtain parimutuel pool information and current odds for the proposed wager, to determine what projected effects the wager can have on the current odds and to display projected odds to the user.

The Examiner admitted that "Hirsimaki fails to teach the use of electronic circuitry to perform the input calculation, or display functions" and attempts to modify Hirsimaki with Mindes to show applicants' approaches (Office Action, ¶ 4). As demonstrated above, Hirsimaki fails to show or suggest all of applicants' claimed features because it does not show or suggest providing what the projected effect the user's proposed wager would have on the parimutuel pool and it does not show or suggest determining the effect the proposed wager would have on the current odds and providing projected odds to the user.

Therefore, even if Hirsimaki were modified with Mindes, the combination would fail to show or suggest all of the features of claims 32 and 48. For at least this reason,

applicants respectfully request that the rejection of claims 32

and 48 under 35 U.S.C. § 103(a) be withdrawn.

VI.   The Examiner's Belief That It Would Be
             Obvious To Modify The Inputs To Hirsimaki's
             Device With A User's Proposed Wager Amount

During the Examiner Interview, applicants believe that

the Examiner was persuaded by the undersigned's argument that

Hirsimaki does not teach using a user's proposed wager amount

when determining the odds for a horse. However, the Examiner

alleged that it would be obvious to one of ordinary skill in the

art when using the mechanical device in Hirsimaki to add a

user's proposed wager amount, when it is of significant size, to

(a) the total amount wagered in the pool and (b) the total

amount in the pool wagered on the horse of interest (see January

29, 2004 Examiner's Interview Summary). Applicants respectfully

disagree.

Odds for parimutuel wagers constantly change as wagers

are placed. The odds only become fixed when the pool closes.

Hirsimaki is obviously aware that the odds change because the

entire purpose of Hirsimaki's mechanical device is to determine

the current state of the odds based on wagers that have been

placed. As described above, Hirsimaki teaches users specific

steps to calculate odds. These specific steps, however, do not

include adjusting inputs for pool amounts based on a user's

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proposed wager. Nevertheless, the Examiner contends that it would be obvious for a user to modify the specific teachings of Hirsimaki.

The Examiner, however, has failed to provide any objective evidence of a motivation to deviate from Hirsimaki's specific instructions for using the mechanical device. *In re Kotzab*, 55 USPQ at 1316-1317 ("[e]ven when obviousness is based on a single prior art reference, there <u>must</u> be a showing of a suggestion or motivation to modify the teachings of that reference.") (emphasis added).

Accordingly, at least because there is no objective evidence of a motivation to deviate from Hirsimaki's specific instructions, applicants submit that it would not be obvious for a user, when calculating odds with Hirsimaki's device, to add a user's proposed wager amount, when it is of a significant size, to (a) the total amount wagered in the pool and (b) the total amount in the pool wagered on the horse of interest.

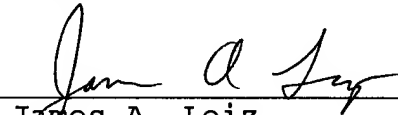VII.   <u>Dependent Claims 2-16, 18-31, 33-47 and 49-62</u>

Claims 2-16 are dependent from claim 1 and are allowable at least because claim 1 is allowable. Claims 18-31 are dependent from claim 17 and are allowable at least because claim 17 is allowable. Claims 33-47 are dependent from claim 32 and are allowable at least because claim 32 is allowable.

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Claims 49-62 are dependent from claim 48 and are allowable at least because claim 48 is allowable.

VIII.   Conclusion

The foregoing demonstrates that claims 1-62 are patentable. This application is therefore in condition for allowance. Reconsideration and allowance are accordingly respectfully requested.

Respectfully submitted,

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